

## § 1021.315

(c) of this section, into any related formal administrative record on the action that is the subject of the EIS supplement or determination (40 CFR 1502.9(c)(3)).

### § 1021.315 Records of decision.

(a) No decision may be made on a proposal covered by an EIS during a 30-day “waiting period” following completion of the final EIS, except as provided at 40 CFR 1506.1 and 1506.10(b) and § 1021.211 of this part. The 30-day period starts when the EPA Notice of Availability for the final EIS is published in the FEDERAL REGISTER.

(b) If DOE decides to take action on a proposal covered by an EIS, a ROD shall be prepared as provided at 40 CFR 1505.2 (except as provided at 40 CFR 1506.1 and § 1021.211 of this part).

(c) DOE RODs shall be published in the FEDERAL REGISTER and made available to the public as specified in 40 CFR 1506.6, except as provided in 40 CFR 1507.3(c) and § 1021.340 of this part.

(d) No action shall be taken until the decision has been made public. DOE may implement the decision before the ROD is published in the FEDERAL REGISTER if the ROD has been signed and the decision and the availability of the ROD have been made public by other means (e.g., press release, announcement in local media).

(e) DOE may revise a ROD at any time, so long as the revised decision is adequately supported by an existing EIS. A revised ROD is subject to the provisions of paragraphs (b), (c), and (d) of this section.

[57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36239, July 9 1996]

### § 1021.320 Environmental assessments.

DOE shall prepare and circulate EAs and related FONSI in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart.

### § 1021.321 Requirements for environmental assessments.

(a) *When to prepare an EA.* As required by 40 CFR 1501.4(b), DOE shall prepare an EA for a proposed DOE action that is described in the classes of actions listed in appendix C to subpart D of this part, and for a proposed DOE action that is not described in any of

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the classes of actions listed in appendices A, B, or D to subpart D, except that an EA is not required if DOE has decided to prepare an EIS. DOE may prepare an EA on any action at any time in order to assist agency planning and decisionmaking.

(b) *Purposes.* A DOE EA shall serve the purposes identified in 40 CFR 1508.9(a), which include providing sufficient evidence and analysis for determining whether to prepare an EIS or to issue a FONSI. If appropriate, a DOE EA shall also include any floodplain/wetlands assessment prepared under 10 CFR part 1022 and may include analyses needed for other environmental determinations.

(c) *Content.* A DOE EA shall comply with the requirements found at 40 CFR 1508.9. In addition to any other alternatives, DOE shall assess the no action alternative in an EA, even when the proposed action is specifically required by legislation or a court order.

### § 1021.322 Findings of no significant impact.

(a) DOE shall prepare a FONSI only if the related EA supports the finding that the proposed action will not have a significant effect on the human environment. If a required DOE EA does not support a FONSI, DOE shall prepare an EIS and issue a ROD before taking action on the proposal addressed by the EA, except as permitted under 40 CFR 1506.1 and § 1021.211 of this part.

(b) In addition to the requirements found at 40 CFR 1508.13, a DOE FONSI shall include the following:

(1) Any commitments to mitigations that are essential to render the impacts of the proposed action not significant, beyond those mitigations that are integral elements of the proposed action, and a reference to the Mitigation Action Plan prepared under § 1021.331 of this part;

(2) Any “Statement of Findings” required by 10 CFR part 1022, “Compliance with Floodplain/Wetlands Environmental Review Requirements”;

(3) The date of issuance; and

(4) The signature of the DOE approving official.

(c) DOE shall make FONSI available to the public as provided at 40 CFR